REMARKS

Claims 1-63 are pending. The Examiner rejected claims 23-27 under 35 U.S.C. 101 because the Examiner argues the claims are not patentable subject mater, and suggests amending the claim to read computer code embodied on a computer readable medium and computer code that is executed. Claim 23 has been amended as the Examiner suggests and the rejection is believed overcome.

Independent claims was rejected under 35 U.S.C. 103(a) as being unpatentable over Chiu (US005883901A) in view of Burke (US006233235), further in view of Sawyer (US006765925), and further still in view of Hillman (US006522265).

Dependent claim 3 was rejected under 35 U.S.C. 103(a) as being unpatentable over Chiu (US005883901A) in view of Burke (US006233235), further in view of Sawyer (US006765925), further still in view of Hillman (US006522265), and further still in view of Brusaw (US5523781).

Chiu describes a Signal Conversion System (SCS) connected to a cable modem. The Signal Conversion System (SCS) uses the Disable/Enable Cable Modem Request subframe type "to turn on and off a particular cable modem 113. The subframe type is 0x03 for Disable and 0x05 for Enable. The Disable/Enable CM subframe is a six-byte MAC modem address field that uniquely identifies the particular CM 113 the frame is directed to." (Col 12, Lines 45-51) The Examiner notes that "Chiu does not disclose disabling the cable modem for periodic intervals separated by activation windows."

Burke describes an alert system. "The alert phase 166 as provided in accordance with the alert queue 60, creates an alert time phase based on the group number N, and then sends the alert phase to the subscriber unit 16,18. A trap 168 is provided in connection with the CMTS operating logic in order to filter all messages destined for registered subscriber units 16, 18. The filtering operation provided by the trap 168 traps out telephony start/alert messages, and queues up such messages in the alert phase bins 0-127 of the alert queue 60. A master clock 170 is provided for the communication system 10 in order to provide precise timing intervals based on the wake times and the number of groups N, and thus master clock signals are generated using the alert messages" (column 8, line 64 – column 9, line 10)

Sawyer describes a technique for "maintaining state information for a network device changing from a first channel (in communication with a first base unit) to a second channel (in communication with a second base unit) communicates with at least one of the first base unit and an intermediate network device to ascertain the state information. Once the state information is ascertained, it is applied to the communication of the network device with the second base unit. Both the first and second base units are independently operable network devices in a data transmission network." (column 2, lines 46-55)

Chiu, Burke, and Sawyer even if appropriately combined do not teach or suggest varying activation window length. Furthermore, none of the cited references teaches or suggests changing activation length based on drift. The Examiner argues that Hillman describes a system that modulates and demodulates data on a carrier frequency much like cable modems. The Examiner argues that anyone of skill in the art would recognize that any network is susceptible to noise thereby causing clock drifts between devices. The Examiner states that Hillman discloses an activation window length (e.g. wakeup window) that is varied based on drift between a cable modem (e.g. receiver clock) and a headend clock (e.g. monitoring center clock).

The Applicants respectfully disagree. The Applicants argued that Hillman lies in an unrelated art area. Hillman does not describe any cable modem clock nor any headend clock. In fact Hillman does not describe any cable modem network at all. Hillman describes a GPS receiver and a cellular receiver in a vehicle in a nonanalogous art area. The Examiner is believed to be relying on a four way combination of references including a reference that has little to do with cable modems. Hillman describes a vehicle tracking and security system. The Examiner argues that a cable modem network is shown in Figures 1 and 4 and column 9, lines 3-13, however, these sections only show a standard cellular and telephone network. There is no cable modem network. Engineers working in the cable modem area generally do not have expertise in vehicle tracking and security and would not likely look to this nonanalogous art area. "During the wake-up window, a monitoring center can call the vehicle 10 and, if necessary, unlock the vehicle doors, flash the vehicle lights, honk the vehicle horn, update a clock in the vehicle 10, etc." (column 17, lines 47-51) In some examples, "the technician at the monitoring center 12 can respond to the information from the vehicle 10. For example, the monitoring center 12 can provide directions, dispatch mechanical assistance, a tow truck, police, fire or ambulatory assistance, or assist the vehicle's occupants with other assistance. During the entire process the

monitoring center 12 maintains continual verbal contact with the vehicle's occupants and obtains continual location data to monitor the vehicle's location in real time." (column 13, lines 53-58)

Hillman differs not only in scale, but differs also in communications mechanisms and protocols. Hillman describes how a vehicle such as a car with a tracking and security system can save power by powering off its GPS receiver and its cellular receiver. When the GPS receiver and the cellular receiver are powered on, the vehicle and its occupant can receive services. Because Hillman differs so much in terms of scale, one of skill in the art in the cable modem industry would not look to the GPS industry for inspiration. More specifically, Hillman talks about activations windows in terms of tens of minutes. The only example describe is "the wake-up windows are roughly 2 minutes long and occur at 20-minute intervals." (column 17, line 37) Hillman also talks about drift in terms of minutes per week. "Thus, for example, if the clock in the vehicle drifts by up to .+-.2 min per week..."

This scale and type of communication mechanism would not work in the cable modem context. Cable modem artisans typically do not have familiarity with vehicle tracking and security systems. Even if they were to look in this nonanalogous art area and found Hillman, the Hillman reference would not work in the cable modem context as the scales and protocols used are impractical.

Dependent claim 3 also recites "wherein the unicast SYNCH message contains periodic interval and activation window information." Dependent claim 3 was rejected under 35 U.S.C. 103(a) as being unpatentable over Chiu (US005883901A) in view of Burke (US006233235), further in view of Sawyer (US006765925), further still in view of Hillman (US006522265), and further still in view of Brusaw (US5523781). The Examiner notes that Chiu in view of Burke in view of Sawyer in view of Hillman do not teach or suggest a unicast SYNCH message

However, Brusaw also does not teach or suggest any unicast SYNCH message. The section the Examiner cites describes televisions that may be controlled using a command message. However, the command message is not a unicast SYNCH message. The command messages do not perform any SYNCH function and are not described as any unicast message. Furthermore, Brusaw applies to television sets controlled by a computer, which is again a distinct art area from cable modem networks. Consequently, dependent claim 3 is believed allowable.

In light of the above remarks relating to independent claims the remaining dependent claims are believed allowable for at least the reasons noted above. Applicants believe that all pending claims are allowable. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
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